

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

KENNETH DWAYNE HARTH, SR.

PLAINTIFF

v.

No. 4:20CV47-RP

**MISSISSIPPI DEPARTMENT
OF CORRECTIONS, ET AL.**

DEFENDANTS

**ORDER *DENYING* PLAINTIFF'S MOTIONS [80], [85]
TO SUBPOENA FREE WORLD WITNESSES**

This matter comes before the court on the motions [80], [85] by the plaintiff to subpoena various Free World witnesses.¹ The motions [80], [85] are **DENIED** because 28 U.S.C. § 1915 does not authorize issuance of subpoenas for non-inmate witnesses at government expense, and it is apparent from plaintiff's request that this proposed witness is neither a prisoner nor a penitentiary employee. If the plaintiff would like to subpoena this witness, he must first tender to that witness the fee for one day's attendance and mileage. FED. R. CIV. P. 45(b)(1)(requiring party seeking subpoena to tender one day's attendance fee plus mileage with each subpoena served); 28 U.S.C. § 1821(b) (setting amount of attendance fee). The plaintiff may contact the Clerk of the Court to determine the correct attendance fee and mileage rate to determine the proper sum to tender to each free world witness.

SO ORDERED, this, the 4th day of March, 2022.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE

¹ The court routinely issues subpoenas for prison employees and defendants; thus, his request for subpoenas for those individuals is unnecessary, though, as stated in the court's scheduling order, the court may limit the number of witnesses subpoenaed if their testimony would be unnecessary or duplicative.

